LAW ENFORCEMENT ON CORRUPTION CASES IN VIETNAM

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ABSTRACT:

This research examines corruption offences in public investment in Vietnam. An important part of the research is to examine and evaluate effectiveness and accountabilities of anti-corruption in public investment in Vietnam, including the Government Inspectorate of Vietnam, the People's Procuracy of Vietnam and the People's Public Security Forces of Vietnam based on their functions, powers and responsibilities. The aim of this research was to examine corruption and criminal behaviour in public investment in Vietnam, to identify practical policies, models and strategies for the purpose of improving the capacities and effectiveness of anti-corruption in public investment in Vietnam. The overall objective of this research was to research the corruption offences in public investment in Vietnam; to evaluate the effectiveness and accountabilities of anticorruption in public investment in Vietnam, including the Government Inspectorate of Vietnam, the People's Procuracy of Vietnam and the People's Public Security Forces of Vietnam based on their functions, powers and responsibilities; and to analyse corruption offences in public investment in terms of organisational structures and criminal behaviour to identify practical recommendations to enhance the success in combating corruption in public investment in Vietnam. A combination of qualitative and quantitative methods was employed in this study. The research has implications for anti-corruption commission policy makers and researchers in Vietnam.

Keywords: law enforcement, corruption, public investment

INTRODUCTION

Vietnam is a development success story in terms of economic transformation. Political and economic reforms have transformed the country from one of the poorest countries in the world to having lower middle-income status within 20 years (World Bank, 2019). Per capita income increased from USD 231 in 1985 to 2,564 in 2018 (Macrotrends, 2019). The average growth rate of the GDP had reached 6.4% by the 2000s, but has since slowed because of the global financial and economic crisis. However, despite a high rate of inflation, the economy regained its position, to stabilise at 6.8% growth per year by 2010 (General Statistics Office cited in Nguyen & Kazantseva, 2015). Though GDP growth declined in some periods after 2010, it increased again during the first half of 2015. Vietnam has successfully improved its macroeconomic stability (Macrotrends, 2019). However, Vietnam's economic development has not encompassed other social issues, resulting in a number of challenges in a variety of areas; in particular, these include corruption, especially in public investment (World Bank, 2019).

Since the 1986 Doi Moi, the Vietnamese government has been in agreement that corruption has a serious influence on many parts of the economy, including decreasing GDP, causing labour income instability and contributing to impoverishing the country (Do, 2011). Duong (2015) noted that nationwide corruption has led to integrity loss in the Vietnamese Communist Party (VCP). The VCP has recently made major efforts to fight corruption. In 2011, the VCP Central Committee organised a Fourth Meeting to formulate a programme of assessment and self-assessment of all members of the Party to help prevent any deeds related to corruption (East Asia Forum, 2012). In 2012, the Fifth Meeting continued the launching of that programme, with many changes (East Asia Forum, 2012). The meeting asked for improvement in the legal framework against corruption, and the renewed law against corruption has stricter regulations (East Asia Forum, 2012); for instance, the law regulates clear conduct disclosure of personal assets, transparency in doing business, responsibility of the government, protection plans for unlawful deeds, and freedom of access to information (East Asia Forum, 2012).

According to East Asia Forum (2012), the Vietnamese government has been determined in the launching of a new anti-corruption programme every year. Deputy Prime Minister and deputy director of the Central Steering Committee on AntiCorruption, Truong Vinh Trong, has indicated that corruption is a serious and complex issue affecting investment in construction and management of land, assets and property (Hong-Nguyen, 2017). The VCP regards corruption as a serious issue that could influenced the continued survival of the party. It particularly emanates from government corporations and economic groups who are sponsored by the government (Lê, 2013), as these target groups are dominant in areas such as improvement of banking and property. 12 Novel solutions to deal with this challenging task are required, with the involvement of many levels; of course, it cannot be dealt with in the short term (Hong-Nguyen, 2017).

The VCP will combat corruption via the use of all strategic methods and policies; however, its validity and effectiveness are still in doubt (Vietnam Law & Legal Forum, 2012). The VCP's efforts will depend on the effectiveness of the law enforcement system, specifically sectors against corruption. The dominance of media and civil society deter them from demonstrating corruption (Tromme, 2016). It is not easy to secure sufficient proof and authority to dismiss corrupt officials, especially when they have high positions in the party (Vietnam Law & Legal Forum, 2012). The shortage of components in the law has failed to protect citizens who witness and report corrupt deeds (Johnston, 2011). The government is passive in investigating the reasons why corruption is still increasing, even though they are committed to reducing it (East Asia Forum, 2012). In addition, there are unrealistic efforts to instigate mechanisms to combat corruption from Vietnamese and foreign donors (Sandgren, 2005).

Many studies on the impacts of corruption on public investment have been conducted, to explore the relationships between corruption in public investment and the growth of a nation. TanZi and Davoodi (1998) focus on the analysis of the relationships between corruption, public investment and economic growth. Through quantitative measurement and analysis of data collected from many countries, these two authors drew the conclusion that corruption increases lead to a bigger scale and smaller efficiency of public investment, and this is proven through indicators of public infrastructure quality reduction. Baliamoune-Lutz, Ndikumana and Uneca (2008) conducted a study assessing 20 the impact of corruption on economic growth through its effects on public and private investment. According to Cooray, Dzhumashev and Schneider (2017), corruption is the cause of increased public debt. Vietnam has borrowed heavily to cover construction of public works (public investment), so corruption in this area will have a significant impact on Vietnam's public debt (Tapchitaichinh, 2018). Regarding the economic impacts of

corruption, an important study by Tran Huu Dung (Ueb, 2014) dealt with the effects of corruption on public investment and economic development. The policy discussion entitled 'Institutional reform, mechanisms and solutions to improve and restructure the public investment' by Nguyen Duc Thanh and Dinh Tuan Minh (Ueb, 2014) also demonstrated that the public investment structure remains inappropriate and supervision and transparency are not high. These are the main factors causing ineffective public investment

Problem

1. What are the causes of corruption in public investment in Vietnam?
2. What are the challenges, difficulties and barriers to policies tackling corruption in public investment in Vietnam?

Research Methods

According to Wheeldon and Ahlberg (2012), the mixed methods researcher uses a combination of both qualitative and quantitative methods to collect the data needed in a single study. This approach builds the strengths and lessens the limitations of both forms of study (Driscoll et al., 2007). Regarded as the 'third methodological movement' in social research, the mixture of quantitative and qualitative techniques offers advantages to the researcher (Creswell, Hanson, Clark Plano & Morales 2007).

At present, there are six types of core mixed methods with distinct characteristics, including the convergent parallel design, the explanatory sequential design, the exploratory sequential design, the embedded design, the transformative design and the design with a multitude of phases (Bryman & Bell, 2011; Tashakkori & Teddlie, 2010; Wheeldon & Khlerg, 2012). As Creswell and Clark (2011, p. 68) indicate, it is the hope of 'researchers to carefully select a design that best matches the research problem and 52 reasons for mixing in order to make the study manageable and simple to implement and describe'.

This study investigates corruption and related criminal behaviours in public investment in Vietnam and explores practical policies, models and strategies for improving the capacities and effectiveness of Vietnam's anti-corruption commissions. The mixed methods approach has been proven to be effective in social science research projects in general (Sparkes, 2015; Yin, 2009) and criminal justice/criminology in particular (De Lisle, 2011). The main research approach of this project is an inductive approach, which is appropriate for this study because it focuses mainly on the explorative nature of the project (e.g., analysing and comprehending the essence, cause and effects, and forms of corruption in Vietnam).
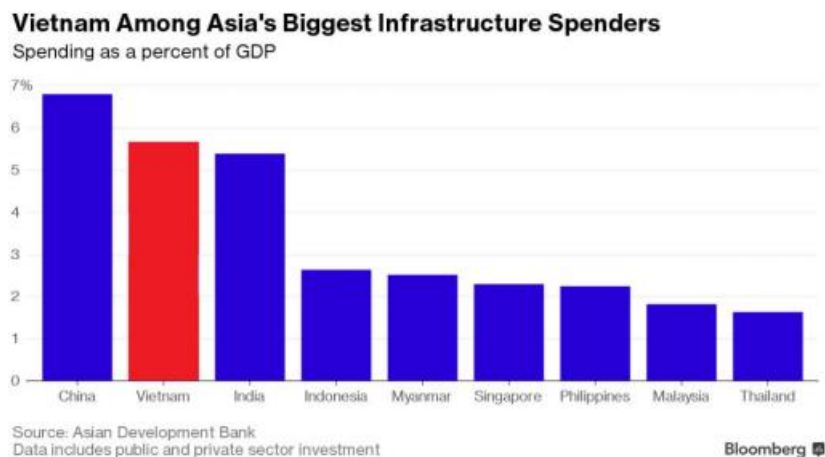
The induction approach, as explained by Saunders, Lewis and Thornhill (2009), utilises a qualitative research methodology with well-known techniques, such as face-to-face interviews. Using qualitative research, the researcher addressed all key components of 'corruption' in public investment in Vietnam, then produced hypotheses. From that base, the researcher designed an appropriate questionnaire for the quantitative research phase. A deduction approach, with the assistance of quantitative data and descriptive analysis, was used to verify the hypotheses and visualise the study findings to facilitate the formulation of solutions for Vietnam's corruption issues.

Discussion

Construction, investment in facilities and land and property had the most occurrences of corruption in public investment.
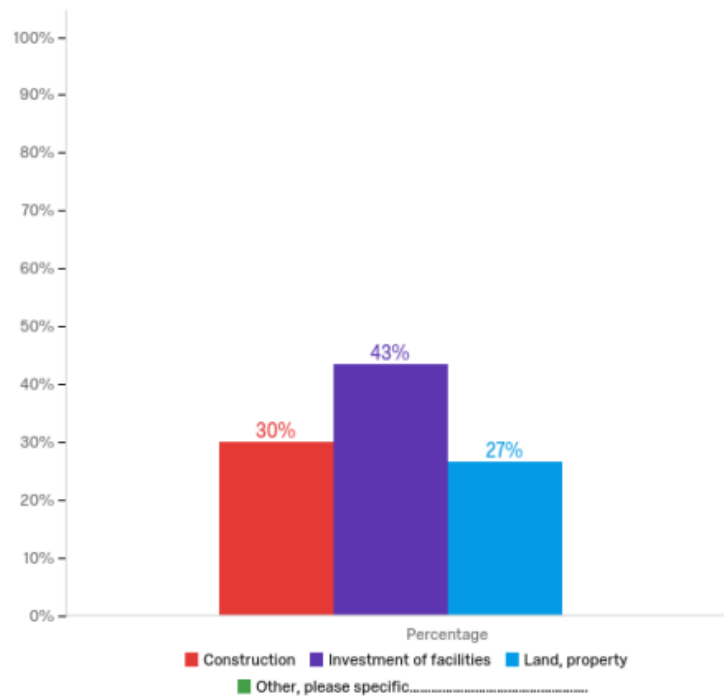
To further describe and support this issue, data from other sources are included. According to Figure above (Yap & Nguyen, 2017), Vietnam's public and private sector infrastructure investment accounted for 5.7% of GDP in recent years, the second highest in Asia, just a little behind China (6.8%) according to the Asian Development Bank. This was followed by Indonesia and the Philippines, who spend less than 3%, and Malaysia and Thailand, who spend the least, under 2% (Yap & Nguyen, 2017).

Vietnam Among Asia's Biggest Infrastructure Spenders
Spending as a percent of GDP

Source: Asian Development Bank
Data includes public and private sector investment

Bloomberg

According to World Economic Forum (2014), Vietnam scored only 3.3 in terms of the quality of national public infrastructure investment, and ranked at 112, which is much lower than other Asian countries such as China (ranked 64 of 144 countries), Thailand (ranked 76 of 144 countries) and India (ranked 90 of 144 countries).

Bribery derives from greed. It is humanity's greedy nature that leads to predatory behaviour in cases in which people are tasked with management. Interviewee 7 stated that 'Personal interests and monetary aspirations have made the person assigned economic responsibility corrupt, causing serious consequences for state capital and an adverse influence on society'. According to Interviewee 3, corruption is attributable to 'the moral breakdown of a large number of cadres, civil servants, officials and party members, including officials and party members working in law enforcement agencies'. Such weaknesses and limitations are attributable to the fact that 'not a few Party Committees, Party organizations, administrations at different levels and heads of agencies, organizations and units have improperly performed their tasks of leading and directing anti-corruption and wastefulness activities' (Vietnamlawmagazine, 2012, p.1). Some leaders and managers at different levels, including the central level, and in various sectors have not been exemplary as regards morality and lifestyle, exhibiting a lack of determination to prevent and fight corruption and wastefulness (Vietnam Law & Legal Forum, 2012).

Vietnam's management of the investment sector lacks transparency; little information is available on public investment projects, and this makes monitoring difficult. Excessive bureaucracy and red tape, overregulation, corruption, dishonesty in dealing with public contracts, lack of transparency and trustworthiness, inability to provide appropriate services for the business sector, and political dependence on the judicial system impose significant economic costs on businesses and slow the process of economic development (World Economic Forum, 2014). The most problematic issue is the strong positive correlation between corruption and poverty. The absence of public scrutiny allows corruption to continue, with serious consequences for the whole nation, but particularly those on low incomes (Luong, 2016b). The Governance and Public Administration Performance Index reported that more than 20% of citizens admitted that they have had to pay bribes to obtain their land use right certificate (Luong, 2016b).

Currently, the measures to prevent corruption reflected in anti-corruption laws partly reflect the will of the VCP in recognising the dangers of corruption. This chapter emphasised that independence and competence create better conditions for anticorruption agencies to prevent and handle corruption cases. Vietnam's anti-corruption agencies are not given full power or support from the government to carry out 198 investigations and enforcement of the anti-corruption law. Therefore, it might lead to the existence of institutional corruption as discussed in the theoretical framework and it failed to gain the trust from the public. Once the trust from the public has not been found, it might result to suspicion, which happens not only within but also beyond the institutions. It might aggravate the situations of corruption.

A comprehensive anti-corruption law should address this by naming these exceptional powers. A comprehensive anticorruption law should give anti-corruption officials the power to deal effectively with their work. This is a handy way to help anti-corruption build the public trust. At the same time, it is not necessary to assess corrupt behaviour through damage or severity of consequences; in practice, this has been ineffective in preventing and dealing with corruption cases. Corrupt behaviours must be evaluated via the building of moral conduct and daily performance of officers-in-charge. If officers have any signals suspicious or do not perform their tasks in the right track, their performance must be tracked promptly to ascertain that they are not going to violate corruption further.

The overlap in the mandate, functions and powers of anti-corruption agencies reduces the effectiveness of investigations and handling of corruption cases. This needs to be overcome to ensure better coordination among agencies in the absence of a formal body responsible for all anti-corruption processes (UNDP, 2012). Regarding limitations in criminalisation and law

enforcement, the omission of some cases should be seen as a corrupt practice that creates a loophole in the law, making it easier for corruption-related acts. Such omissions have made the public view the institution as unreliable as specified by Lessig (2012) and Brock (2014) in the theoretical framework. The stipulation that only individuals in the state (with positions and powers) are subject to anti-corruption law also creates limits. With these cases, the United Nations Convention against Corruption has recommendations for cases that should be defined as corruption (not just those in the state but corruption in the private sector or public sector joint ventures with the private sector).

Also, the decision to prosecute and punishments based on severity are vague and difficult areas requiring better definition in Vietnam's anti-corruption law. In other words, Vietnam's anti-corruption law must be designed and updated in more details on a regular basis to make sure that there is no crack in the law chapters in which violators-to-be can optimise to corrupt. Once those officers familiarise themselves with the corruption practice, they might cause institutional corruption which is tremendously challenging to battle as affirmed by Balboa and Medalla (2006). In addition, legal regulations related to the protection of witnesses, prosecutors and their families should be finalised soon and implemented seriously. In most cases, the source of denunciation is denouncing individuals and corrupt officials have high office and power and money; thus, the risk of retaliation from corrupt officials is real. If the anticorruption law does not guarantee safety and have the effect of partially encouraging denunciation of violations, the content of the law will lose its significance.

The existence of regulations which protect people who are witnesses, prosecutors and their families will make themselves at ease when they report suspicious deeds or practices related to corruption performed in their workplaces or in the societies. Otherwise, the corruption will be on the rise instead of being reduced. It is vital that legal regulations have to make people who have the intention to violate the law feel scared when there is any possibility of their corruption. Besides, anti-corruption officers must maintain their accountability and have to say "absolute no" to corruption because these officers are more likely to be affected by corruption practice. In order to make them accountable for their job performance, it is important that they should be paid satisfactorily as well as have good benefits. One of the most serious shortcomings of Vietnam's anti-corruption law is the lack of regulations regarding illicit assets. Permitting the investigation of abnormal public assets of civil servants, which may not necessarily involve previous corrupt acts, is one of the most effective tools for detecting corrupt behaviour. It also prevents illicit enrichment. The effectiveness of regulations related to illicit enrichment has been proven in the case of other countries, such as Singapore and Hong Kong (UNDP, 2012). What constitutes an effective anti-corruption law is the collaboration in performing anticorruption practice of all the officers-in-charge. It is certain that the laws have to reflect exactly deeds as well as practices deemed to have violated corruption together with certain punishments. Regarding asset recovery, efficiency in the recovery of property lost due to corruption is relatively poor. Management and disclosure of assets of government officials is sparse and carried out in a rather formal way, but the contents of the law related to asset recovery does not give the investigating body sufficient power to retrieve assets.

Reform of the regulations on the management of civil servants' property and strengthening the authority of the authorities will be one of the noteworthy actions of the VCP and the state. There is no doubt that as mentioned in the theoretical framework, institutional corruption will not only affect the economic development of the institutions themselves on a small scale but also the economic development of an entire entity or a nation on a large scale. As asserted by Mbanefo and

Eboka (2017), corruption if widespread impacts on the allocation of entrepreneurial skills. It will lead to the downturn of the economic development of a country if regulations fail to address feasible corruption practices in full detail. Vietnam ODA: lack of transparency. This creates many problems in public administration management and corruption prevention based on the findings and the theoretical framework. From the points mentioned regarding the increased opportunities for corruption to the selection of pure individuals in the organisation, the erosion of trust and the will to cooperate with parties, it can be seen that some high-potential threats threaten the functioning of a oneparty state.

In addition, the issue of public confidence in Vietnam for government activities being at a relatively low level poses a potential danger in stabilising national politics and building people's trust (a goal of government) encountered many difficulties and in a bad case is impossible. One of the issues faced by policymakers in Vietnam is the increase in party interests within the party. The erosion of legislation and interest groups with power that encompasses a wide range of processes from policy formulation to the administration and monitoring of the public will cause difficulties that will hinder elimination of group interests. Interest groups are a serious social problem. No country has eliminated group interests and interest groups. But if this does not return to the interests of the group and the interest group, then there is no healthy economic development, the appearance of the threatened regime. To counter group interests and interest groups, it is necessary to address some of the following approaches.

Conclusion

Anti-corruption in Vietnam is not effective. Human resource management, handling the people involved and moral breakdown are leading causes of ineffective anticorruption.

1. Handling the People Involved In the anti-corruption law, the provisions on handling of responsibilities of heads of agencies, organisations or units when corrupt acts occur in their agencies, organisations or units are not yet specific and clear. 205 In the case of corruption, apart from the accused in the case, the heads of direct management of the accused have not been dealt with severely. The handling of those managers' responsibilities is still superficial, making it easier for corrupt offences to continue.

2. Ineffective Workforce Management Management of staff involves many procedures, the responsibility of the head is not high, individuality in handling situations is unclear, unfair and undetermined. The communication regime lacks transparency and control before the occurrence of corruption.

3. Moral Breakdown Bribery is derived from greed; it is humanity's greedy nature that leads to predatory behaviour in cases in which people are assigned management tasks. Personal interests and monetary aspirations make people assigned economic responsibility corrupt, causing serious consequences on state capital and an adverse influence on society.

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